

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

SOUTHERN MANAGEMENT)	
CORPORATION RETIREMENT)	
TRUST,)	
)	
Plaintiff/Appellee,)	
)	
v.)	District Court Case No.: 1:11-cv-1362
)	Appeal from United States Bankruptcy
)	Court, Eastern District of Virginia
CHAWKY BOUTROS JABALY,)	Case No. 10-12956
)	
Defendant/Appellant.)	

ORDER

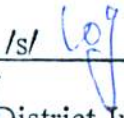
This matter comes before the Court on Plaintiff Southern Management Corporation Retirement Trust's ("SMCRT") Motions to Dismiss, for Sanctions, and for an Extension of Time to File Appellee's Brief (Dkt. Nos. 7, 16 & 18). For good cause shown and the reasons that follow, it is hereby

ORDERED that Plaintiff's Motion to Dismiss (Dkt. No. 7) is GRANTED and this appeal is DISMISSED with prejudice. SMCRT's request for an Extension of Time (Dkt. No. 18) is therefore DENIED as moot. Finally, in its discretion under Rule 11(c)(1), the Court finds the imposition of sanctions unwarranted. Accordingly, it is further ORDERED that SMCRT's Motion for Sanctions (Dkt. No. 16) is DENIED.

This is an appeal from the United States Bankruptcy Court for the Eastern District of Virginia ("Bankruptcy Court"). In the Appellant's words, the issue presented on appeal is whether the Bankruptcy Court "erred in granting Sanctions For Failure to Comply with [the] Discovery Order and Entering Judgment Denying Defendant a Discharge" ("Denial of Discharge Order"). Appellant Br. at 1. The Denial of Discharge Order entered default against Jabaly on a

one of the bankruptcy action's three counts, Count III, for failure to comply with the Court's discovery order. *See* Adv. Pro. 10-01479-BFk, Dkt. No. 59. The Denial of Discharge Order has since been vacated by the Bankruptcy Court, leaving no judiciable issue on appeal. *See* Adv. Pro. 10-01478-BFK, Dkt. No. 74 ¶ 3(D) ("Southern Management Corporation Retirement Trust agrees to dismiss with prejudice Count 3 of the Complaint seeking denial of Jabaly's discharge pursuant to 11 U.S.C. § 724(a)(4) and agrees that the Court's Denial of Discharge Order [Dkt. #59] should be vacated."); *id.* ¶ 6 ("[I]t is hereby . . . ORDERED that the Denial of Discharge Order be and is hereby vacated"). The appeal of a since-vacated order does not constitute a live case or controversy for this Court to consider. Therefore, this appeal is dismissed with prejudice.

January 30, 2012
Alexandria, Virginia



Liam O'Grady
United States District Judge